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NOV 21 2002

In re Application of
John Bullock et al.
Application No. 10/042,731
Filed: December 21, 2000
Attorney Docket No.: IQN0001

OFFICE OF PETITIONS

:
: DECISION GRANTING
: PETITION
:

This is a decision on the paper styled "Petition to Reset Filing Date Pursuant to 37 CFR 1.10(e)" filed December 12, 2001 originally in application 09/855,767¹ and the papers filed July 31, 2002 which are being construed collectively as a petition requesting that a patent application of John Bullock et al. (attorney docket No. IQN0001) be accorded a filing date of December 21, 2000.

Petitioners allege that the original application papers were deposited in Express Mail service in accordance with the procedures set forth in 37 CFR 1.10 and that the application is entitled to the date of deposit in Express Mail service as the filing date. In support, petitioners have supplied a copy of the original application papers showing the Express Mail label No. EL 661402809US thereon. The petition is accompanied by a copy of Express Mail receipt No. EL 661402809US (the same Express Mail number found on the original application papers) showing a date-in of December 21, 2000.

Based on the evidence above, the petition to accord the application a filing date of December 21, 2000 is granted. No petition fee is due. The fee of \$130 charged in application No. 09/855,767 will be refund.

The original application papers cannot be located. The petition and duplicate papers received December 12, 2001 have been placed in a new file wrapper and assigned application No. 10/042,731. The duplicate papers will be used for examination purposes.

A review of the copy of the transmittal letter submitted December 21, 2000 reveals that it listed a "Request and Certification under 35 U.S.C. 122(b)(2)(B)(I)" (PTO/SB/35 or its equivalent), however a copy of such paper was not among the papers submitted on December 12, 2001. On

¹ Petitioners filed the petition to reset the filing date in application No. 09/855,767. In a phone interview with the Stuart Langley, applicant's representative, in March 2002, it was revealed that the petition was intended to be a 37 C.F.R. 1.10(e) petition to grant an application number and filing date and such written intention is set forth in the papers filed July 31, 2002.

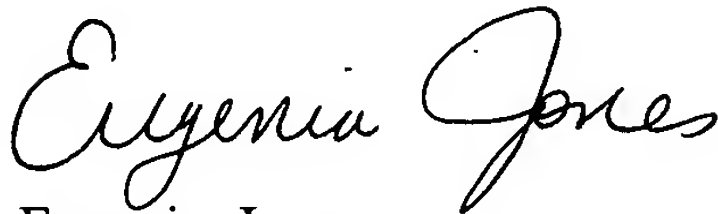
July 31, 2002, petitioners submitted a paper entitled "Transmittal of Supplementary Petition to Obtain Filing Date Pursuant to 37 CFR 1.10(e)" accompanied by a copy of PTO/SB/35(11/00) dated December 21, 2000. Petitioners state that the PTO/SB/35 form was part of the original papers submitted on December 21, 2000 and that the copy being submitted is a true copy of the original PTO/SB/35 submitted on December 21, 2000.

Applicants should notify this office if the original application papers are subsequently discovered in the Office so that the present duplicate file can be merged with the original papers and any duplicate filing fee refunded.

The \$355.00 small entity application filing fee will be charged to applicant's deposit account No. 50-1123 after mailing of this decision.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of December 21, 2000, using the copy of the application papers supplied December 12, 2001 and July 31, 2002.

Any inquiries related to this decision should be directed to Legal Advisor Darnell M. Jayne at (703) 305-3310.



Eugenia Jones
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

dmj

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND				
1 Date of Request: <u>11/20/02</u>		2 Serial/Patent # <u>08/855767</u>		
3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			\$
	Amendment			\$
	Extension of Time			\$
	Notice of Appeal/Appeal			\$
✓	Petition			\$ 130.00
	Issue			\$
	Cert of Correction/Terminal Disc.			\$
	Maintenance			\$
	Assignment			\$
	Other			\$
		7 TOTAL AMOUNT OF REFUND		\$
		8 TO BE REFUNDED BY:		
10 REASON:		Treasury Check		
	Overpayment	Credit Deposit A/C #:		
	Duplicate Payment	9 <u>50--1123</u>		
X	No Fee Due (Explanation):			
<u>1.10(e) petition</u>				
11 REFUND REQUESTED BY:				
TYPED/PRINTED NAME: <u>Darnell JAYNE</u>		TITLE: <u>Legal Advisor</u>		
SIGNATURE: <u>[Signature]</u>		PHONE: <u>(703) 305-3310</u>		
OFFICE: <u>OPLA</u>				

THIS SPACE RESERVED FOR FINANCE USE ONLY:				
APPROVED: <u>[Signature]</u>		DATE: <u>1/2/02</u>		

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

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